IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.7648/2005
IN
CRIMINAL APPEAL NO.

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.V.G,.Mujumdar for Applicant
Mr.Nitin Jamdar for Res.nos. 1 & 2
Mr.P.A.Pol APP for State

Coram : R.S.Mohite, J

Date : 26th November, 2007

PC

1. This is an application for leave to appeal against an order passed by the J.M.F.C.Pune in Criminal case No.2 of 2003 whereby the trial Court has acquitted the accused for the offences under section 398 of the BPMC Act. The alleged evasion of octroi is for the period covering October, 2000 till August, 2002. The amount of octroi said to have been evaded is Rs.7,23,000/-. The record indicates that by a letter dated 7th July, 2003 the Corporation admitted the fact that excess octroi of Rs.12,80,000/- has been

deposited and offered to adjust the amount against future liability. Inspite of that prosecution is launched in 2003. It must be said that section 398 of the BPMC Act requires intention to defraud when octroi is unpaid. It cannot be said that there is intention to defraud. No perversity is seen in the order. Hence, leave refused. Consequently, appeal papers be filed.

(R.S.Mohite, J)